

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SHEILA PORTER

Plaintiff,

v.

ANDREA CABRAL, SUFFOLK COUNTY
SHERIFF'S DEPARTMENT, and SUFFOLK
COUNTY

Defendants.

Civil Action No.04-11935-DPW

PLAINTIFF'S ASSENTED-TO MOTION FOR STATUS CONFERENCE

Plaintiff Sheila Porter¹ moves this Court for a status conference in the above-captioned matter ("Motion"). Defendants assent to the Motion. In support of the Motion, Plaintiff states as follows:

1. On November 9, 2007, the parties filed a Motion for Relief From Judgment (the "underlying motion"). The parties have tentatively agreed to settle this action, but the settlement is contingent on vacating the judgment against Sheriff Cabral. Thus, the parties filed the underlying motion, pursuant to Rule 60(b) and the rule established in *Commonwealth of Puerto Rico v. The S.S. Zoe Colocotroni*, 601 F.2d 39, 42 (1st Cir. 1979), requesting that this Court issue a brief memorandum "within a few days of filing" stating its inclination to grant the requested vacatur. If the Court issues the brief memorandum, the parties will immediately seek remand of

¹ Sheila Porter passed away on September 17, 2007. On November 23, 2007, the First Circuit granted plaintiff's motion to substitute John Porter, Sr., as personal representative of the estate of Sheila Porter, as plaintiff in this matter.

this case from the First Circuit to this Court, at which time the parties will formally request an order vacating the judgment.

2. The First Circuit has stayed the appeal in this matter pending the Court's resolution of the underlying motion.

3. On February 25, 2008, the parties filed a joint motion for oral argument on the underlying motion.

4. The parties are anxious to resolve this matter. Ms. Porter's family would like to proceed expeditiously with the resolution that is memorialized in the tentative settlement agreement. Under the settlement agreement, prejudgment interest and attorneys' fees have not been accruing to the Plaintiff while the underlying motion has been pending, and the Plaintiff would benefit from knowing the timing of a ruling by the court in order to evaluate whether the agreement in principle is still in the plaintiff's interest or should be withdrawn. Thus, the Plaintiff requests a brief status conference. As mentioned above, Defendants assent to the instant Motion.

WHEREFORE Plaintiff respectfully requests that the Court allow the instant Motion and schedule a status conference at the earliest practicable date.

Respectfully submitted,

SHEILA PORTER

By her attorneys,

/s/ David S. Schumacher

Joseph F. Savage Jr. (BBO # 443030)

David S. Schumacher (BBO # 647917)

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Dated: June 2, 2008

CERTIFICATION UNDER LOCAL RULE 7.1 AND
CERTIFICATE OF SERVICE

I, David S. Schumacher, hereby certify that counsel for plaintiff conferred with defense counsel in a good faith attempt to resolve or narrow the issues in this motion prior to its filing and defendants assent to this motion.

I further certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on this 2nd day of June, 2008.

/s/ David S. Schumacher
David S. Schumacher